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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,224	03/01/2002	Ajay Kumar	5681-12100	6928
7590	09/19/2005		EXAMINER	
Robert C. Kowert Conley, Rose, & Tayon, P.C. P.O. Box 398 Austin, TX 78767			LIN, KELVIN Y	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/087,224	KUMAR ET AL.	
	Examiner Kelvin Lin	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 6/27/05.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/17/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

### ***Response to Arguments***

1. Application's argue with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 21-26 have been amended to recite a tangible computer accessible medium, but are still not persuasive, because the computer readable medium (defined at Specification, page 26, [0080]), including intangible media such as signals (electrical, electromagnetic, or digital signal). Therefore, claims 21-26 are directed to non-statutory subject matter.

### ***Response to Amended Claims***

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-26 are rejected under 35 USC 102(e) as being anticipated by Everdell et al., (US PG Pub. No. 2002/0165961 ).
5. Regarding claim 1, Everdell teaches a system, comprising:
  - a first node of a distributed store comprising a primary state of

session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes (Everdell, [0009]-[0010], in which the plurality processors, and one of plurality of control corresponds to the distributed store, [0146], and [0156], in which the NMS client/server connects each other, corresponds to the primary state of session, and the logical system model contains metadata defining objects, attributes corresponds to the session data comprises of attributes).

- another node comprising a back-up instance of the primary state (Everdell, [0457], in which network manager establish the second connection between client/server corresponds to the back-up instance of the primary state); wherein the system is configured to:
  - compare the primary state to a benchmark of the primary state to generate a subset of the attributes of the session data that have been modified in the primary state (Everdell, [0916], in which the Dynamic Threshold table corresponds to the benchmark , [0933], in which NMS server compare the attribute in data from NMS client to the attribute from Dynamic Threshold Table corresponds to the compare primary state to a benchmark ); and
  - synchronize the back-up instance of the primary state with the primary state using the subset of the attributes of the session data

(Everdell, [0322] in which the first and second server corresponds to the synchronize the back-up instance, and [0842], the NMS server sends a full set of updated proxies to ensure NMS client is fully synchronized and updated attributes from [0933], and [0938], in which the NMS compare the attributes and different threshold used to evaluate resource attributes and active the proper rules accordingly).

6. Regarding claim 2, Everdell further discloses a system as recited in claim 1, wherein, to compare the primary state to the benchmark of the primary state, the system is further configured to perform binary differencing of a binary representation of the primary state and a binary representation of the benchmark of the primary state to determine the modified attributes (Everdell, [0566], in which the comparison of the connection table (connected/disconnected) corresponds to the binary differencing of binary representation).
7. Regarding claim 3, Everdell further discloses a system as recited in claim 2, wherein, to perform binary differencing, one or more portions of the binary representation of the primary state are compared to corresponding portions of the binary representation of the benchmark of the primary state to determine the modified attributes (Everdell, [0566], compare of the ATM connection table and device driver connection table and updates the ATM table since ATM application is a distributed application corresponds to the benchmark and primary attributes )

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8. Regarding claim 4, Everdell further discloses a system as recited in claim 1, wherein, to compare the primary state to a benchmark of the primary state, the system is further configured to perform object graph differencing of an object graph representation of the primary state and an object graph representation of the benchmark of the primary state to determine the modified attributes (Everdell, [0355], in which the NMS server sent to NMS client corresponds to the primary state is performed in object graph presentation, also, [0918], in which the threshold evaluation for resource attribute, and hardware resource corresponds to the comparison of primary and benchmark attribute in the object graph differencing form )
9. Regarding claim 5, Everdell further discloses the system as recited in claim 4, wherein the attributes comprise objects organized according to an object graph representation, wherein, to perform object graph differencing, one or more objects in the object graph representation of the primary state are compared to corresponding instances of objects in an object graph representation of the benchmark of the primary state to identify the modified attributes of the primary state (Everdell , [0918]-[0919], [0924], in which the threshold dialog box includes many elements and user may accept the default value or select value from corresponding menus, NMS client may add new rules to pull-down menu corresponds to the compare and modify attributes of primary state).
10. Regarding claim 6, Everdell further discloses a system as recited in claim 1,

wherein the another node comprising a back-up instance of the primary state is another node of the distributed store (Everdell, [0457], and [0462], in which the second connection (back-up link) which derived from the first provisioning corresponds to the another node of the distributed store).

11. Regarding claim 7, claiming for the system in addition with mutable attributes of the session data (Everdell, [0202], [0489], I.9-15, [0552], in which the changes of configuration parameter and evaluation parameter corresponds to the mutable attributes of the session data) has similar limitation as claim 1. Therefore, Claim 7 is rejected for the same reasons set forth in the rejection of claim 1.
12. Regarding claims 8-10 have similar limitation as claims 2-4. Therefore, Claims 8-10 are rejected for the same reasons set forth in the rejection of claims 2-4.
13. Regarding claim 11, claiming for the system with another instance of primary state using means of function (Everdell, [0460], in which once the connection with NMS server and network device are established corresponds to the another instance of primary state) has similar limitation as claim 1. Therefore, Claim 11 is rejected for the same reasons set forth in the rejection of claim 1.
14. Regarding claims 12-14 have similar limitation as claims 2-4. Therefore, Claims 12-14 are rejected for the same reasons set forth in the rejection of claims 2-4.
15. Regarding claims 15-20 have similar limitation as claims 1-6. Therefore, Claims 15-20 are rejected for the same reasons set forth in the rejection of claims 1-6.
16. Regarding claims 21-26 have similar limitation as claims 1-6. Therefore, Claims 15-20 are rejected for the same reasons set forth in the rejection of claims 1-6.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Lin whose telephone number is 571-272-3898. The examiner can normally be reached on Flexible 4/9/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kyl  
9/14/05



KAMINI SHAH  
PRIMARY EXAMINER